



1 **SECTION 98.** 51.45 (13) (c) of the statutes is amended to read:

2 51.45 (13) (c) Effective and timely notice of the preliminary hearing, together
3 with a copy of the petition and supporting affidavits under par. (a), shall be given to
4 the person unless he or she has been taken into custody under par. (b), the spouse
5 or legal guardian if the person is adjudicated incompetent, the person's counsel, and
6 the petitioner. The notice shall include a written statement of the person's right to
7 an attorney, the right to trial by jury, the right to be examined by a physician, and
8 the standard under which he or she may be committed under this section. If the
9 person is taken into custody under par. (b), upon arrival at the approved public
10 treatment facility, the person shall be advised both orally and in writing of the right
11 to counsel, the right to consult with counsel before a request is made to undergo
12 voluntary treatment under sub. (10), the right not to converse with examining
13 physicians, psychologists or other personnel, the fact that anything said to
14 examining physicians, psychologists or other personnel may be used as evidence
15 against him or her at subsequent hearings under this section, the right to refuse
16 medication under s. 51.61 (6), the exact time and place of the preliminary hearing
17 under par. (d), the right to trial by jury, the right to be examined by a physician and
18 of the reasons for detention, and the standards under which he or she may be
19 committed prior to all interviews with physicians, psychologists, or other personnel.
20 Such notice of rights shall be provided to the person's immediate family if they can
21 be located and may be deferred until the person's incapacitated condition, if any, has
22 subsided to the point where the person is capable of understanding the notice. Under
23 no circumstances may interviews with physicians, psychologists, or other personnel
24 be conducted until such notice is given, except that the person may be questioned to
25 determine immediate medical needs. The person may be detained at the facility to

SENATE BILL 391

1 which he or she was admitted or, upon notice to the attorney and the court,
2 transferred by the county department to another appropriate public or private
3 treatment facility, until discharged under this subsection. A copy of the petition and
4 all supporting affidavits shall be given to the person at the time notice of rights is
5 given under this paragraph by the superintendent, who shall provide a reasonable
6 opportunity for the patient to consult counsel.

7 **SECTION 99.** 51.45 (13) (e) of the statutes is amended to read:

8 51.45 (13) (e) Upon a finding of probable cause under par. (d), the court shall
9 fix a date for a full hearing to be held within 14 days. An extension of not more than
10 14 days may be granted upon motion of the person sought to be committed upon a
11 showing of cause. Effective and timely notice of the full hearing, the right to counsel,
12 the right to jury trial, and the standards under which the person may be committed
13 shall be given to the person, the immediate family other than a petitioner under par.
14 (a) or sub. (12) (b) if they can be located, the ~~spouse or~~ legal guardian if the person
15 is adjudicated incompetent, the superintendent in charge of the appropriate
16 approved public treatment facility if the person has been temporarily committed
17 under par. (b) or sub. (12), the person's counsel, unless waived, and to the petitioner
18 under par. (a). Counsel, or the person if counsel is waived, shall have access to all
19 reports and records, psychiatric and otherwise, which have been made prior to the
20 full hearing on commitment, and shall be given the names of all persons who may
21 testify in favor of commitment and a summary of their proposed testimony at least
22 96 hours before the full hearing, exclusive of Saturdays, Sundays and legal holidays.

23 **SECTION 100.** 51.61 (1) (o) of the statutes is amended to read:

24 51.61 (1) (o) Except as otherwise provided, have a right not to be filmed or
25 taped, unless the patient signs an informed and voluntary consent that specifically

SENATE BILL 391**SECTION 100**

1 authorizes a named individual or group to film or tape the patient for a particular
2 purpose or project during a specified time period. The patient may specify in such
3 the consent periods during which, or situations in which, the patient may not be
4 filmed or taped. If a patient is legally adjudicated incompetent, ~~such~~ the consent
5 shall be granted on behalf of the patient by the patient's guardian. A patient in
6 Goodland Hall at the Mendota Mental Health Institute, or a patient detained or
7 committed under ch. 980 and placed in a facility specified under s. 980.065, may be
8 filmed or taped for security purposes without the patient's consent, except that such
9 a patient may not be filmed in patient bedrooms or bathrooms for any purpose
10 without the patient's consent.

11 **SECTION 101.** 51.61 (1) (w) 3. of the statutes is amended to read:

12 51.61 (1) (w) 3. A patient, a patient's relative who may be liable for the cost of
13 the patient's care and treatment, or a patient's guardian may request information
14 about charges for care and treatment services at the treatment facility or community
15 mental health program. If a treatment facility or community mental health program
16 receives such a request, the treatment facility or community mental health program
17 shall promptly provide to the individual making the request written information
18 about the treatment facility's or community mental health program's charges for
19 care and treatment services. Unless the request is made by the patient, the guardian
20 of a patient ~~adjudged~~ adjudicated incompetent ~~under ch. 880 in this state~~, the parent
21 or guardian of a minor who has access to the minor's treatment records under s. 51.30
22 (5) (b) 1., or a person designated by the patient's informed written consent under s.
23 51.30 (4) (a) as a person to whom information may be disclosed, information released
24 under this subdivision is limited to general information about the treatment facility's

SENATE BILL 391**SECTION 101**

1 or community mental health program's charges for care and treatment services and
2 may not include information which may not be disclosed under s. 51.30.

3 **SECTION 102.** Chapter 54 of the statutes is created to read:

4 **CHAPTER 54**

5 **GUARDIANSHIPS AND CONSERVATORSHIPS**

6 **SUBCHAPTER I**

7 **DEFINITIONS**

8 **54.01 Definitions.** In subchs I to VI:

9 (1) "Activities of daily living" means activities relating to the performance of
10 self care, work, and leisure activities, including dressing, eating, grooming, mobility,
11 and object manipulation.

12 (3) "Conservator" means a person who is appointed by a court at an individual's
13 request under s. 54.76 (2) to manage the estate of the individual.

14 (4) "Court" means the circuit court or judge assigned to exercise probate
15 jurisdiction or the assignee of the judge under s. 757.68 (4m) or 851.73 (1) (g) who is
16 assigned relevant authority.

17 (5) "Decedent" means the deceased individual whose estate is subject to
18 administration.

19 (6) "Degenerative brain disorder" means the loss or dysfunction of an
20 individual's brain cells to the extent that he or she is substantially impaired in his
21 or her ability to provide adequately for his or her own care or custody or to manage
22 adequately his or her property or financial affairs.

23 (7) "Depository account" has the meaning given in s. 815.18 (2) (e).

24 (9) "Durable power of attorney" has the meaning given in s. 243.07 (1) (a).

SENATE BILL 391**SECTION 102**

1 (11) “Guardian of the estate” means a guardian appointed to comply with the
2 duties specified in s. 54.19 and to exercise any of the powers specified in s. 54.20.

3 (12) “Guardian of the person” means a guardian appointed to comply with the
4 duties specified in s. 54.25 (1) and to exercise any of the powers specified in s. 54.25
5 (2).

6 (13) “Heir” means any person, including the surviving spouse, who is entitled
7 under the statutes of intestate succession to an interest in property of a decedent.
8 The state is an heir of the decedent and a person interested under s. 45.37 (10) and
9 (11) when the decedent was a member of the Wisconsin Veterans Home at King or
10 at the facilities operated by the department of veterans affairs under s. 45.385 at the
11 time of the decedent’s death.

12 (14) “Impairment” means a developmental disability, serious and persistent
13 mental illness, degenerative brain disorder, or other like incapacities.

14 (15) “Incapacity” means the inability of an individual effectively to receive and
15 evaluate information or to make or communicate a decision with respect to the
16 exercise of a right or power.

17 (16) “Individual found incompetent” means an individual who has been
18 adjudicated by a court as meeting the requirements of s. 54.10 (3).

19 (17) “Interested person” means any of the following:

20 (a) For purposes of a petition for guardianship, any of the following:

21 1. The proposed ward, if he or she has attained 14 years of age.

22 2. The spouse or adult child of the proposed ward, or the parent of a proposed
23 ward who is a minor.

SENATE BILL 391

1 3. For a proposed ward who has no spouse, child, or parent, an heir, as defined
2 in s. 851.09, of the proposed ward that may be reasonably ascertained with due
3 diligence.

4 4. Any individual who is nominated as guardian, any individual who is
5 appointed to act as guardian or fiduciary for the proposed ward by a court of any
6 state, any trustee for a trust established by or for the proposed ward, any person
7 appointed as agent under a power of attorney for health care, as defined in s. 155.01
8 (4), or any person appointed as agent under a durable power of attorney under ch.
9 243.

10 5. If the proposed ward is a minor, the individual who has exercised principal
11 responsibility for the care and custody of the proposed ward during the period of 60
12 consecutive days immediately before the filing of the petition.

13 6. If the proposed ward is a minor and has no living parent, any individual
14 nominated to act as fiduciary for the minor in a will or other written instrument that
15 was executed by a parent of the minor.

16 7. If the proposed ward is receiving moneys paid, or if moneys are payable, by
17 the federal department of veterans affairs, a representative of the federal
18 department of veterans affairs, or, if the proposed ward is receiving moneys paid, or
19 if moneys are payable, by the state department of veterans affairs, a representative
20 of the state department of veterans affairs.

21 8. If the proposed ward is receiving long-term support services or similar public
22 benefits, the county department of human services or social services that is providing
23 the services or benefits.

SENATE BILL 391**SECTION 102**

1 9. The corporation counsel of the county in which the petition is filed and, if the
2 petition is filed in a county other than the county of the proposed ward's residence,
3 the corporation counsel of the county of the proposed ward's residence.

4 10. Any other person required by the court.

5 (b) For purposes of proceedings subsequent to an order for guardianship, any
6 of the following:

7 1. The guardian.

8 2. The spouse or adult child of the ward or the parent of a minor ward.

9 3. The county of venue, through the county's corporation counsel, if the county
10 has an interest.

11 4. Any person appointed as agent under a durable power of attorney under ch.
12 243, unless the agency is revoked or terminated by a court.

13 5. Any other individual that the court may require, including any fiduciary that
14 the court may designate.

15 (18) "Least restrictive" means that which places the least possible restriction
16 on personal liberty and the exercise of rights and that promotes the greatest possible
17 integration of an individual into his or her community that is consistent with
18 meeting his or her essential requirements for health, safety, habilitation, treatment,
19 and recovery and protecting him or her from abuse, exploitation, and neglect.

20 (19) "Meet the essential requirements for physical health or safety" means
21 perform those actions necessary to provide the health care, food, shelter, clothes,
22 personal hygiene, and other care without which serious physical injury or illness will
23 likely occur.

24 (21) "Mortgage" means any agreement or arrangement in which property is
25 used as security.

SENATE BILL 391

1 (23) “Personal representative” means any individual to whom letters to
2 administer a decedent’s estate have been granted by the court or by the probate
3 registrar under ch. 865, but does not include a special administrator.

4 (24) “Physician” has the meaning given in s. 448.01 (5).

5 (25) “Property” means any interest, legal or equitable, in real or personal
6 property, without distinction as to kind, including money, rights of a beneficiary
7 under a contractual arrangement, ~~chooses~~ in action, and anything else that may be
8 the subject of ownership. *chooses*

9 (26) “Proposed ward” means a minor, an individual alleged to be incompetent,
10 or an alleged spendthrift, for whom a petition for guardianship is filed.

11 (27) “Psychologist” ~~has the~~ means a licensed psychologist, as defined in s.
12 455.01 (4).

13 (28) “Psychotropic medication” means a prescription drug, as defined in s.
14 450.01 (20), that is used to treat or manage a psychiatric symptom or challenging
15 behavior.

16 (29) “Sale” includes an option or agreement to transfer whether the
17 consideration is cash or credit. It includes exchange, partition, and settlement of title
18 disputes. The intent of this subsection is to extend and not to limit the meaning of
19 “sale.”

20 (30) “Serious and persistent mental illness” means a mental illness that is
21 severe in degree and persistent in duration, that causes a substantially diminished
22 level of functioning in the primary aspects of daily living and an inability to cope with
23 the ordinary demands of life, that may lead to an inability to maintain stable
24 adjustment and independent functioning without long-term treatment and support
25 and that may be of lifelong duration. “Serious and persistent mental illness” includes

SENATE BILL 391

SECTION 102

1 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
2 psychiatric diagnostic categories, but does not include degenerative brain disorder
3 or a primary diagnosis of a developmental disability or of alcohol or drug dependence.

4 (32) "Standby conservator" means an individual designated by the court under
5 s. 54.76 (2) whose appointment as conservator becomes effective immediately upon
6 the death, resignation, or court's removal of the initially appointed conservator, or
7 if the initially appointed conservator is temporarily or permanently unable,
8 unavailable, or unwilling to fulfill his or her duties.

9 (33) "Standby guardian" means an individual designated by the court under
10 s. 54.52 (2) whose appointment as guardian becomes effective immediately upon the
11 death, resignation, or court's ~~removal~~ of the initially appointed guardian, or if the
12 initially appointed guardian is temporarily or permanently unable, unavailable, or
13 unwilling to fulfill his or her duties. removal

14 (34) "Successor conservator" means an individual appointed under s. 54.76 (9).

15 (35) "Successor guardian" means an individual appointed under s. 54.54.

16 (36) "Surviving spouse" means an individual who was married to the decedent
17 at the time of the decedent's death. "Surviving spouse" does not include any of the
18 following:

19 (a) An individual who obtains or consents to a final decree or judgment of
20 divorce from the decedent or an annulment of their marriage, if the decree or
21 judgment is not recognized as valid in this state, unless the 2 subsequently
22 participated in a marriage ceremony purporting to marry each other or they
23 subsequently held themselves out as husband and wife.

SENATE BILL 391

(b) An individual who, following an invalid decree or judgment of divorce or annulment obtained by the decedent, participates in a marriage ceremony with a 3rd individual.

(c) An individual who was party to a valid proceeding concluded by an order purporting to terminate all property rights based on the marriage with the decedent.

(38) “Will” includes a codicil and any document incorporated by reference in a testamentary document under s. 853.32 (1) or (2). “Will” does not include a copy, unless the copy has been proven as a will under s. 856.17, but “will” does include a properly executed duplicate original.

for an individual

SUBCHAPTER II

APPOINTMENT OF GUARDIAN

54.10 Appointment of guardian. (1) A court may appoint a guardian of the person or a guardian of the estate, or both, for a proposed ward if the court determines that the individual is a minor.

(2) (a) A court may appoint a guardian of the person or a guardian of the estate, or both, for a proposed ward if the court determines by clear and convincing evidence that the individual is a spendthrift.

an individual

finds

aged at least 18 years and is

(3) (a) A court may appoint a guardian of the person or a guardian of the estate, or both, for an individual based on a finding that the individual is incompetent only if the court finds by clear and convincing evidence that all of the following are true:

1. The individual is aged at least 17 years and 9 months.

2. For purposes of appointment of a guardian of the person, because of an impairment, the individual is unable effectively to receive and evaluate information or to make or communicate decisions to such an extent that the individual is unable to meet the essential requirements for his or her physical health and safety.

INSERT
59-17

SENATE BILL 391

SECTION 102

1 3. For purposes of appointment of a guardian of the estate, because of an
2 impairment, the individual is unable effectively to receive and evaluate information
3 or to make or communicate decisions related to management of his or her property
4 or financial affairs, to the extent that any of the following applies:

5 a. The individual has property that will be dissipated in whole or in part.

6 b. The individual is unable to provide for his or her support.

7 c. The individual is unable to prevent financial exploitation.

8 4. The individual's need for assistance in decision making or communication
9 is unable to be met effectively and less restrictively through appropriate and
10 reasonably available training, education, support services, health care, assistive
11 devices, or other means that the individual will accept.

12 (b) Unless the proposed ward is unable to communicate decisions effectively in
13 any way, the determination under par. (a) may not be based on mere old age,
14 eccentricity, poor judgment, or physical disability.

15 (c) In appointing a guardian under this subsection, declaring incompetence to
16 exercise a right under s. 54.25 (2) (c), or determining what powers ~~it is~~ ^{are} appropriate
17 for the guardian to exercise under s. 54.18, 54.20, or 54.25 (2) (d), the court shall
18 consider all of the following:

19 1. The report of the guardian ad litem, as required in s. 54.40 (4).

20 2. The medical or psychological report provided under s. 54.36 (1) and any
21 additional medical, psychological, or other evaluation ordered by the court under s.
22 54.40 (4) (e) or offered by a party and received by the court.

23 3. Whether the proposed ward has engaged in any advance planning for
24 financial and health care decision making that would avoid guardianship, including

SENATE BILL 391

1 by executing a durable power of attorney under ch. 243, a power of attorney for health
2 care, as defined in s. 155.01 (10), a trust, or a jointly held account.

3 4. Whether other reliable resources are available to provide for the individual's
4 personal needs or property management, and whether appointment of a guardian is
5 the least restrictive means to provide for the individual's need for a substitute
6 decision maker.

7 5. The preferences, desires, and values of the individual with regard to personal
8 needs or property management.

9 6. The nature and extent of the individual's care and treatment needs and
10 property and financial affairs.

11 7. Whether the individual's situation places him or her at risk of abuse,
12 exploitation, neglect, or violation of rights.

13 8. Whether the individual can adequately understand and appreciate the
14 nature and consequences of his or her impairment.

15 9. The individual's management of the activities of daily living.

16 10. The individual's understanding and appreciation of the nature and
17 consequences of any inability he or she may have with regard to personal needs or
18 property management.

19 11. The extent of the demands placed on the individual by his or her personal
20 needs and by the nature and extent of his or her property and financial affairs.

21 12. Any physical illness of the individual and the prognosis of the individual.

22 13. Any mental disability, alcoholism, or other drug dependence of the
23 individual and the prognosis of the mental disability, alcoholism, or other drug
24 dependence.

SENATE BILL 391

SECTION 102

1 14. Any medication with which the individual is being treated and the
2 medication's effect on the individual's behavior, cognition, and judgment.

3 15. Whether the effect on the individual's evaluative capacity is likely to be
4 temporary or long term, and whether the effect may be ameliorated by appropriate
5 treatment.

6 16. Other relevant evidence. *are*

7 (d) Before appointing a guardian under this subsection, declaring
8 incompetence to exercise a right under s. 54.25 (2) (c), or determining what powers
9 ~~it is~~ appropriate for the guardian to exercise under s. 54.18, 54.20, or 54.25 (2) (d),
10 the court shall determine if additional medical, psychological, social, vocational, or
11 educational evaluation is necessary for the court to make an informed decision
12 respecting the individual's competency to exercise legal rights and may obtain
13 assistance in the manner provided in s. 55.06 (8) whether or not protective placement
14 is made.

15 (e) In appointing a guardian under this subsection, the court shall authorize
16 the guardian to exercise only those powers under ss. 54.18, 54.20, and 54.25 (2) (d)
17 that are necessary to provide for the individual's personal needs and property
18 management and to exercise the powers in a manner that is appropriate to the
19 individual and that constitutes the least restrictive form of intervention.

20 (4) If the court appoints both a guardian of the person and a guardian of the *other than an individual found to be a*
21 estate for an individual, *spendthrift* the court may appoint separate persons to be guardian of
22 the person and of the estate, or may appoint one person to act as both.

23 (5) The court may appoint coguardians of the person or coguardians of the
24 estate, subject to any conditions that the court imposes.

SENATE BILL 391

1 54.12 (1) (e) Make payment to the agent under a durable power of attorney of
2 the ward.

3 (f) Make payment to the trustee of any trust created for the benefit of the ward.

SUBCHAPTER III

NOMINATION OF GUARDIAN; CS

POWERS AND DUTIES; LIMITATIONS

54.15 (1m) ^B ~~POTENTIAL CONFLICTS OF INTEREST.~~ ¶

7 ~~54.15~~ (2) AGENT UNDER DURABLE POWER OF ATTORNEY. The court shall appoint as
8 guardian of the estate an agent under a proposed ward's durable power of attorney,
9 unless the court finds that the appointment of an agent is not in the best interests
10 of the proposed ward.

11 (3) AGENT UNDER A POWER OF ATTORNEY FOR HEALTH CARE. The court shall appoint
12 as guardian of the person the agent under a proposed ward's power of attorney for
13 health care, unless the court finds that the appointment of the agent is not in the best
14 interests of the proposed ward.

15 (4) PERSON NOMINATED BY PROPOSED WARD.

16 (8) STATEMENT OF ACTS BY PROPOSED GUARDIAN. (a) At least 96 hours before the
17 hearing under s. 54.44, the proposed guardian shall submit to the court a sworn and
18 notarized statement as to whether any of the following is true:

19 1. The proposed guardian is currently charged with or has been convicted of a
20 crime, as defined in s. 939.12.

21 2. The proposed guardian has filed for or received protection under the federal
22 bankruptcy laws.

23 3. Any license, certificate, permit, or registration of the proposed guardian that
24 is required under chs. 440 to 480 or by the laws of another state for the practice of
25 a profession or occupation has been suspended or revoked.

SENATE BILL 391

SECTION 102

1 4. The proposed guardian is listed under s. 146.40 (4g) (a) 2.

2 (b) If par. (a) 1., 2., 3., or 4. applies to the proposed guardian, he or she shall
3 include in the sworn and notarized statement a description of the circumstances
4 surrounding the applicable event under par. (a) 1., 2., 3., or 4.

5 **54.18 General duties and powers of guardian; limitations; immunity.**

6 (1) A ward retains all his or her rights that are not assigned to the guardian or
7 otherwise limited by statute. A guardian acting on behalf of a ward may exercise only
8 those powers that the guardian is authorized to exercise by statute or court order.
9 A guardian may be granted only those powers necessary to provide for the personal
10 needs or property management of the ward in a manner that is appropriate to the
11 ward and that constitutes the least restrictive form of intervention.

12 (2) A guardian shall do all of the following:

13 (a) Exercise the degree of care, diligence, and good faith when acting on behalf
14 of a ward that an ordinarily prudent person exercises in his or her own affairs.

15 (b) Advocate for the ward's best interests, including, if the ward is protectively
16 placed under ch. 55 and if applicable, advocating for the ward's applicable rights
17 under ss. 50.09 and 51.61.

18 (c) Exhibit the utmost degree of trustworthiness, loyalty, and fidelity in relation
19 to the ward.

20 (d) Notify the court of any change of address of the guardian or ward.

21 (3) No guardian may do any of the following:

22 (b) Lend funds of the ward to another individual or to an entity, unless the court
23 first approves the terms, rate of interest, and any requirement for security.

24 **54.19 Duties of guardian of the estate.** Subject to s. 54.18 (1) and except
25 as specifically limited in the order of appointment, the guardian of the estate shall,

SENATE BILL 391

1 following any applicable procedures of s. 54.22, do all of the following in order to
2 provide a ward with the greatest amount of independence and self-determination
3 with respect to property management in light of the ward's functional level,
4 understanding, and appreciation of his or her functional limitations and the ward's
5 personal wishes and preferences with regard to managing the activities of daily
6 living:

7 (2) Retain, expend, distribute, sell, or invest the ward's property, rents, income,
8 benefits, and proceeds and account for all of them, subject to ~~ch. 786~~ ^{cho.} and 881

9 (3) Determine, if the ward has executed a will, the will's location, determine
10 the appropriate persons to be notified in the event of the ward's death, and, if the
11 death occurs, notify those persons.

12 (4) Use the ward's income and property to maintain and support the ward and
13 any dependents of the ward.

14 (5) Prepare and file an annual account as specified in s. 54.62.

15 (6) At the termination of the guardianship, deliver the ward's assets to the
16 persons entitled to them.

17 (8) File, with the register of deeds of any county in which the ward possesses
18 real property of which the guardian has actual knowledge, a sworn and notarized
19 statement that specifies the legal description of the property, the date that the ward
20 is determined to be an incompetent, and the name, address, and telephone number
21 of the ward's guardian and any surety on the guardian's bond.

22 (9) Perform any other duty required by the court order.

23 **54.20 Powers of guardian of the estate.** (1) (a) The ward's understanding
24 of the harm that he or she is likely to suffer as the result of his or her inability to
25 manage property and financial affairs.

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65-21

610

SENATE BILL 391**SECTION 102**

1 (b) The ward's personal preferences and desires with regard to managing his
2 or her activities of daily living.

3 (c) The least restrictive form of intervention for the ward.

4 (2) POWERS REQUIRING COURT APPROVAL. The guardian of the estate may do any
5 of the following with respect to the ward's income and assets only with the court's
6 prior written approval following any petition and upon any notice and hearing that
7 the court requires:

8 (a) Make gifts, under the terms, including the frequency, amount, and donees
9 specified by the court in approval of a petition under s. 54.21.

10 (c) Establish a trust as specified under 42 USC 1396p (d) (4) and transfer assets
11 into the trust.

12 (d) Purchase an annuity or insurance contract and exercise rights to elect
13 options or change beneficiaries under insurance and annuity policies and to
14 surrender the policies for their cash value.

15 (e) Ascertain, establish, and exercise any rights available to the ward under a
16 retirement plan or account.

17 (f) Exercise any elective rights that accrue to the ward as the result of the death
18 of the ward's spouse or parent.

19 (g) Release or disclaim, under s. 854.13, any interest of the ward that is received
20 by will, intestate succession, nontestamentary transfer at death, or other transfer.

21 (i) Provide support for an individual whom the ward is not legally obligated to
22 support.

23 (j) Convey or release a contingent or expectation interest in property, including
24 a marital property right and any right of survivorship that is incidental to a joint
25 tenancy or survivorship marital property.

SENATE BILL 391

1 **(3) POWERS THAT DO NOT REQUIRE COURT APPROVAL.** The guardian of the estate
2 may do any of the following on behalf of the ward without first receiving the court's
3 approval:

4 (a) Provide support from the ward's income and assets for an individual whom
5 the ward is legally obligated to support.

6 (b) Enter into a contract, other than a contract under sub. (2) or that is
7 otherwise prohibited under this chapter.

8 (c) Exercise options of the ward to purchase securities or other property.

9 (d) Authorize access to or release of the ward's confidential financial records.

10 (e) Apply for public and private benefits.

11 (k) Take any other action, except an action specified under sub. (2), that is
12 reasonable or appropriate to the duties of the guardian of the estate.

13 **54.21 Petition to transfer ward's assets to another.** (1) In this section:

14 (a) "Disabled" has the meaning given in s. 49.468 (1) (a) 1.

15 (b) "Other individual" means any of the following:

16 1. The ward's spouse, if any.

17 2. The ward's close friend, if any, and if the close friend meets the requirements
18 of s. 50.94 (3) (e) 1. and 2.

19 3. The guardian ad litem of the ward's minor child, if any.

20 4. The ward's disabled child, if any.

21 5. Any of the ward's siblings who has an ownership interest in property that
22 is co-owned with the ward.

23 6. Any of the ward's children who provides care for the ward as specified in 42
24 USC 1396p (c) (2) (A) iv.

SENATE BILL 391**SECTION 102**

1 (c) “Will, trust, or other instrument” includes a revocable or irrevocable trust,
2 a durable power of attorney, or a marital property agreement.

3 (2) A guardian or other individual who seeks an order authorizing and
4 directing the guardian of the estate to transfer any of a ward’s income or assets to
5 or for the benefit of any person shall submit to the court a petition that specifies all
6 of the following:

7 (a) Whether a proceeding by anyone seeking this authority with respect to the
8 ward’s income and assets was previously commenced and, if so, a description of the
9 nature of the proceeding and the disposition made of it.

10 (b) The amount and nature of the ward’s financial obligations, including
11 moneys currently and prospectively required to provide for the ward’s maintenance,
12 support, and well-being and to provide for others dependent upon the ward for
13 support, regardless of whether the ward is legally obligated to provide the support.
14 If the petitioner has access to a copy of a court order or written agreement that
15 specifies support obligations of the ward, the petitioner shall attach the copy to the
16 petition.

17 (c) The income and assets of the ward that is the subject of the petition, the
18 proposed disposition of the property, and the reasons for the disposition.

19 (d) The wishes, if ascertainable, of the ward.

20 (e) As specified in sub. (3), whether the ward has previously executed a will or
21 similar instrument.

22 (f) A description of any significant gifts or patterns of gifts that the ward has
23 made.

SENATE BILL 391

1 (g) The current and likely future effect of the proposed transfer of assets on the
2 ward's eligibility for public benefits, including medical assistance or a benefit under
3 s. 46.27.

4 (h) Whether the guardian of the person and the guardian of the estate, if not
5 the petitioner, agree with or object to the transfer.

6 (i) The names, post-office addresses, and relationships to the ward of all of the
7 following:

8 1. Any presumptive adult heirs of the ward who can be ascertained with
9 reasonable diligence.

10 2. If the ward has previously executed a will, trust, or other instrument, the
11 named or described beneficiaries, if known, under the most recent will, trust, or other
12 instrument executed by the ward.

13 (3) (a) If a ward has previously executed a will, trust, or other instrument for
14 nontestamentary transfer and the petitioner is able, with reasonable diligence, to
15 obtain a copy, the petitioner shall provide the copy to the court, together with a
16 statement that specifies all of the following:

17 1. The manner in which the copy was secured.

18 2. The manner in which the terms of the will, trust, or other instrument for
19 nontestamentary transfer became known to the petitioner for nontestamentary
20 transfer.

21 3. The basis for the petitioner's belief that the copy is of the ward's most recently
22 executed will, trust, or other instrument.

23 (b) If the petitioner is unable to obtain a copy of the most recently executed will
24 or other dispositive estate planning document or is unable to determine if the ward
25 has previously executed a will or other dispositive estate planning document, the

SENATE BILL 391**SECTION 102**

1 petitioner shall provide a statement to the court that specifies the efforts that were
2 made by the petitioner to obtain a copy or ascertain the information.

3 (c) If a copy of the most recently executed will or other dispositive estate
4 planning document is not otherwise available, the court may order the person who
5 has the original will or other dispositive estate planning document to provide a
6 photocopy to the court for in camera examination. The court may provide the
7 photocopy to the parties to the proceeding unless the court finds that doing so is
8 contrary to the ward's best interests.

9 (d) The petitioner and the court shall keep confidential the information in a will
10 or other dispositive estate planning document, or a copy of the will or other
11 dispositive estate planning document, under this subsection, and may not, unless
12 otherwise authorized, disclose that information.

13 (4) The petitioner shall serve notice upon all of the following, together with a
14 copy of the petition, stating that the petitioner will move the court, at a time and
15 place named in the notice, for the order described in the petition:

16 (a) If not the same as the petitioner, the guardian of the person and the
17 guardian of the estate.

18 (b) Unless the court dispenses with notice under this subsection, the persons
19 specified in sub. (2) (i), if known to the petitioner.

20 (c) The county corporation counsel, if the county has an interest in the matter.

21 (5) The court shall consider all of the following in reviewing the petition:

22 (a) The wishes of the ward, if known.

23 (b) Whether the duration of the ward's impairment is likely to be sufficiently
24 brief so as to justify dismissal of the proceedings in anticipation of the ward's
25 recovered ability to decide whether, and to whom, to transfer his or her assets.

SENATE BILL 391

1 (c) Whether the proposed transfer will benefit the ward, the ward's income and
2 assets, or members of the ward's immediate family.

3 (d) Whether the donees or beneficiaries under the proposed disposition are
4 reasonably expected objects of the ward's generosity and whether the proposed
5 disposition is consistent with any ascertained wishes of the ward or known estate
6 plan or pattern of lifetime gifts that he or she has made.

7 (e) Whether the proposed disposition will produce tax savings that will
8 significantly benefit the ward, his or her dependents, or other persons for whom the
9 ward would be concerned.

10 (f) The factors specified in sub. (2) (a) to (i) and any statements or other evidence
11 under sub. (3).

12 (g) Any other factors that the court determines are relevant.

13 **(6)** The court may grant the petition under sub. (2) and enter an order
14 authorizing and directing the guardian of the estate to take action requested in the
15 petition, if the court finds and records all of the following:

16 (a) That the ward has incapacity to perform the act for which approval is sought
17 and the incapacity is not likely to change positively within a reasonable period of
18 time.

19 (b) That a competent individual in the position of the ward would likely perform
20 the act under the same circumstances.

21 (c) That, before the ward had incapacity to perform the act for which approval
22 is sought, he or she did not manifest intent that is inconsistent with the act.

23 **(7)** Nothing in this section requires a guardian to file a petition under this
24 section and a guardian is not liable or accountable to any person for having failed to
25 file a petition under this section.

SENATE BILL 391

SECTION 102

1 54.25 (1) DUTIES. A guardian of the person shall do all of the following:

2 (b) 1. Regular inspection, in person, of the ward's condition, surroundings, and
3 treatment.

4 2. Examination of the ward's patient health care records and treatment records
5 and authorization for redisclosure as appropriate.

6 3. Attendance and participation in staff meetings of any facility in which the
7 ward resides or is a patient, if the meeting includes a discussion of the ward's
8 treatment and care.

9 4. Inquiry into the risks and benefits of, and alternatives to, treatment for the
10 ward, particularly if drastic or restrictive treatment is proposed.

11 5. Specific consultation with providers of health care and social services in
12 making all necessary treatment decisions.

13 (2) POWERS. (a) *Rights and powers of a guardian of the person.* A guardian of
14 the person has only those rights and powers that the guardian is specifically
15 authorized to exercise by statute, rule, or court order. Any other right or power is
16 retained by the ward, unless the ward has been declared incompetent to exercise the
17 right under par. (c) or the power has been transferred to the guardian under par. (d).

18 (b) *Rights retained by individuals determined incompetent.* An individual
19 determined incompetent retains the power to exercise all of the following rights,
20 without consent of the guardian:

21 1. To have access to and communicate privately with the court and with
22 governmental representatives, including the right to have input into plans for
23 support services, the right to initiate grievances, including under state and federal
24 law regarding resident or patient rights, and the right to participate in
25 administrative hearings and court proceedings.

SENATE BILL 391

SECTION 102

1 2. To have access to, communicate privately with, and retain legal counsel, with
2 fees paid from the income and assets of the ward, subject to court approval.

3 3. To have access to and communicate privately with representatives of the
4 protection and advocacy agency under s. 51.62 and the board on aging and long-term
5 care.

6 4. To protest a residential placement made under s. 55.05 (5), and to be
7 discharged from a residential placement unless the individual is protectively placed
8 under s. 55.06 or the elements of s. 55.06 (11) are present.

9 5. To petition for court review of guardianship, protective services, protective
10 placement, or commitment orders.

11 6. To give or withhold a consent reserved to the individual under ch. 51.

12 7. To exercise any other rights specifically reserved to the individual by statute
13 or the constitutions of the state or the United States, including the rights to free
14 speech, freedom of association, and the free exercise of religious expression.

15 (c) *Declaration of incompetence to exercise certain rights.* 1. The court may, as
16 part of a proceeding under s. 54.44 in which an individual is found incompetent and
17 a guardian is appointed, declare that the individual has incapacity to exercise one
18 or more of the following rights:

19 a. The right to consent to marriage.

20 b. The right to execute a will.

21 c. The right to serve on a jury.

22 d. The right to apply for an operator's license, a license issued under ch. 29, or
23 a credential, as defined in s. 440.01 (2) (a), if the court finds that the individual is
24 incapable of understanding the nature and risks of the licensed or credentialed
25 activity, to the extent that engaging in the activity would pose a substantial risk of

SENATE BILL 391**SECTION 102**

1 physical harm to the individual or others. A failure to find that an individual is
2 incapable of applying for a license or credential is not a finding that the individual
3 qualifies for the license or credential under applicable laws and rules.

4 e. The right to consent to sterilization, if the court finds that the individual is
5 incapable of understanding the nature, risk, and benefits of sterilization, after the
6 nature, risk, and benefits have been presented in a form that the individual is most
7 likely to understand.

8 f. The right to consent to organ, tissue, or bone marrow donation.

9 2. Any finding under subd. 1. that an individual lacks evaluative capacity to
10 exercise a right must be based on clear and convincing evidence. In the absence of
11 such a finding, the right is retained by the individual.

12 3. If an individual is declared not competent to exercise a right under subd. 1.
13 or 4., a guardian may not exercise the right or provide consent for exercise of the right
14 on behalf of the individual. If the court finds with respect to a right listed under subd.
15 1. a., d., e., or f. that the individual is competent to exercise the right under some but
16 not all circumstances, the court may order that the individual retains the right to
17 exercise the right only with consent of the guardian of the person.

18 4. Regardless of whether a guardian is appointed, a court may declare that an
19 individual is not competent to exercise the right to register to vote or to vote in an
20 election if it finds by clear and convincing evidence that the individual is incapable
21 of understanding the objective of the elective process. If the petition for a declaration
22 of incompetence to vote is not part of a petition for guardianship, the same
23 procedures shall apply as would apply for a petition for guardianship.

24 The determination of the court shall be communicated in writing by the clerk
25 of court to the election official or agency charged under s. 6.48, 6.92, 6.925, or 6.93

SENATE BILL 391

1 with the responsibility for determining challenges to registration and voting that
2 may be directed against that elector. The determination may be reviewed as
3 provided in s. 54.64 (2) (a) and (c) and any subsequent determination of the court
4 shall be likewise communicated by the clerk of court.

5 (d) *Guardian authority to exercise certain powers.* 1. A court may authorize a
6 guardian of the person to exercise all or part of any of the powers specified in subd.
7 2. only if it finds, by clear and convincing evidence, that the individual lacks
8 evaluative capacity to exercise the power. The court shall authorize the guardian of
9 the person to exercise only those powers that are necessary to provide for the
10 individual's personal needs, safety, and rights and to exercise the powers in a manner
11 that is appropriate to the individual and that constitutes the least restrictive form
12 of intervention. The court may limit the authority of the guardian of the person with
13 respect to any power to allow the individual to retain power to make decisions about
14 which the individual is able effectively to receive and evaluate information and
15 communicate decisions. When a court appoints a guardian for a minor, the guardian
16 shall be granted care, custody, and control of the person of the minor.

17 2. All of the following are powers subject to subd. 1.:

18 a. Except as provided under subd. 2. b., c., and d., and except for consent to
19 psychiatric treatment and medication under ch. 51, and subject to any limitation
20 under s. 54.46 (3) (b), the power to give informed consent, if in the ward's best
21 interests, to voluntary or involuntary medical examination and treatment and to the
22 voluntary receipt by the ward of medication, including any appropriate psychotropic
23 medication that is in the ward's best interest, if the guardian has first made a
24 good-faith attempt to discuss with the ward the ward's voluntary receipt of the
25 psychotropic medication and the ward does not protest. For purposes of this subd.

SENATE BILL 391**SECTION 102**

1 2. a., “protest” means make more than one discernible negative response, other than
2 mere silence, to the offer of, recommendation for, or other proffering of voluntary
3 receipt of psychotropic medication. “Protest” does not mean a discernible negative
4 response to a proposed method of administration of the psychotropic medication. A
5 guardian may consent to the involuntary administration of psychotropic medication
6 only under a court order under s. 55.14. In determining whether medication or
7 medical treatment, other than psychotropic medication, is in the ward’s best interest,
8 the guardian shall consider the invasiveness of the medication or treatment and the
9 likely benefits and side effects of the medication or treatment.

10 b. Unless it can be shown by clear and convincing evidence that the ward would
11 never have consented to research participation, the power to authorize the ward’s
12 participation in an accredited or certified research project if the research might help
13 the ward; or if the research might not help the ward but might help others, and the
14 research involves no more than minimal risk of harm to the ward.

15 c. The power to authorize the ward’s participation in research that might not
16 help the ward but might help others even if the research involves greater than
17 minimal risk of harm to the ward if the guardian can establish by clear and
18 convincing evidence that the ward would have elected to participate in such
19 research; and the proposed research was reviewed and approved by the research and
20 human rights committee of the institution conducting the research. The committee
21 shall have determined that the research complies with the principles of the
22 statement on the use of human subjects for research adopted by the American
23 Association on Mental Deficiency, and with the federal regulations for research
24 involving human subjects for federally supported projects.

SENATE BILL 391

1 d. Unless it can be shown by clear and convincing evidence that the ward would
2 never have consented to any experimental treatment, the power to consent to
3 experimental treatment if the court finds that the ward's mental or physical status
4 presents a life-threatening condition; the proposed experimental treatment may be
5 a life saving remedy; all other reasonable traditional alternatives have been
6 exhausted; 2 examining physicians have recommended the treatment; and, in the
7 court's judgment, the proposed experimental treatment is in the ward's best
8 interests.

9 e. The power to give informed consent to receipt by the ward of social and
10 supported living services.

11 f. The power to give informed consent to release of ~~medical, treatment, and~~
12 ~~other~~ confidential records and to redisclosure as appropriate. *other than court, treatment, and patient health care records*

13 g. The power to make decisions related to mobility and travel.

14 ✓ h. The power to admit the individual to residential facilities as provided under
15 s. 55.05 (5), make an emergency protective placement under s. 55.06 (11), or make
16 a temporary protective placement under s. 55.06 (12).

17 i. The power to choose providers of medical, social, and supported living
18 services.

19 j. The power to make decisions regarding educational and vocational placement
20 and support services or employment.

21 k. The power to make decisions regarding initiating a petition for the
22 termination of marriage.

23 L. The power to receive all notices on behalf of the ward.

24 m. The power to act in all proceedings as an advocate of the ward, except the
25 power to enter into a contract that binds the ward or the ward's property or to

SENATE BILL 391**SECTION 102**

1 represent the ward in any legal proceedings pertaining to the property, unless the
2 guardian of the person is also the guardian of the estate.

3 n. The power to apply for protective placement under s. 55.06 or for
4 commitment under s. 51.20 or 51.45 (13) for the ward.

5 o. The power to have custody of the ward, if an adult, and the power to have
6 care, custody, and control of the ward, if a minor.

7 p. Any other power the court may specifically identify.

8 3. In exercising powers and duties delegated to the guardian of the person
9 under this paragraph, the guardian of the person shall, consistent with meeting the
10 individual's essential requirements for health and safety and protecting the
11 individual from abuse, exploitation, and neglect, do all of the following:

12 a. Place the least possible restriction on the individual's personal liberty and
13 exercise of constitutional and statutory rights, and promote the greatest possible
14 integration of the individual into his or her community.

15 b. Make diligent efforts to identify and honor the individual's preferences with
16 respect to choice of place of living, personal liberty and mobility, choice of associates,
17 communication with others, personal privacy, and choices related to sexual
18 expression and procreation. In making a decision to act contrary to the individual's
19 expressed wishes, the guardian shall take into account the individual's
20 understanding of the nature and consequences of the decision, the level of risk
21 involved, the value of the opportunity for the individual to develop decision-making
22 skills, and the need of the individual for wider experience.

23 c. Consider whether the ward's estate is sufficient to pay for the needed
24 services.

SUBCHAPTER IV
PROCEDURES

54.30 Jurisdiction and venue.

(3) (b) 1. An interested person shall file a petition for change of venue in the county in which venue for the guardianship currently lies.

2. The person filing the petition under subd. 1. shall give notice to the corporation counsel of the county in which venue for the guardianship currently lies and to the register in probate and corporation counsel for the county to which change of venue is sought.

3. If no objection to the change of venue is made within 15 days after the date on which notice is given under subd. 2., the circuit court of the county in which venue for the guardianship currently lies may enter an order changing venue. If objection to the change of venue is made within 15 days after the date on which notice is given under subd. 2., the circuit court of the county in which venue for the guardianship currently lies shall set a date for a hearing within 7 days after the objection is made and shall give notice of the hearing to the corporation counsel of that county and to the corporation counsel and register in probate of the county to which change of venue is sought.

54.34 (1) (k) Whether the proposed ward is a recipient of a public benefit, including medical assistance or a benefit under s. 46.27.

(L) The agent under any current, valid power of attorney for health care or durable power of attorney that the proposed ward has executed.

(m) Whether the petitioner is requesting a full or limited guardianship and, if limited, the specific authority sought by the petitioner for the guardian or the specific rights of the individual that the petitioner seeks to have removed or transferred.

SENATE BILL 391

SECTION 102

and, if so, the details of the guardianship, conservatorship, or related proceedings

(n) Whether the proposed ward, if married, has children who are not children of the current marriage.

the petitioner is aware of any

or related pending or ordered proceeding involving

(p) Whether ~~there is a petition for~~ guardianship or conservatorship of the proposed ward ~~pending~~ in another state or county.

INSERT 80-4

54.36 (2) A petitioner or guardian ad litem may petition the court for an order requiring the proposed ward to submit to an examination by a licensed physician or psychologist pursuant to s. 804.10 (1).

(3) A physician or psychologist who examines a proposed ward under a court order requiring the examination may, without the informed consent of the proposed ward, obtain access to the patient health care records and treatment records of the proposed ward.

54.38 Notice. (1) FORM AND DELIVERY OF NOTICE. A notice shall be in writing. A copy of the petition, motion, or other required document shall be attached to the notice. Unless otherwise provided, notice may be delivered in person, by certified mail with return receipt requested, or by facsimile transmission. Notice is considered to be given by proof of personal delivery or by proof that the notice was mailed to the last-known address of the recipient or was sent by facsimile transmission to the last-known facsimile transmission number of the recipient.

(2) (b) Personally or by mail at least 10 days before the time set for hearing, to all of the following:

1. The proposed ward's counsel, if any.
2. The proposed ward's guardian ad litem.
3. Any presumptive adult heirs, as specified in s. 851.09, of the proposed ward.
4. Any other interested persons, unless specifically waived by the court.

INSERT 80-18

SENATE BILL 391

1 5. The agent under any durable power of attorney or power of attorney for
2 health care of the ward.

3 6. Any person who has legal or physical custody of the proposed ward.

4 7. Any public or private agency, charity, or foundation from which the proposed
5 ward is receiving aid or assistance.

6 8. The proposed guardian for the proposed ward.

7 9. Any other person that the court requires.

8 54.40 (4) (c) Interview the proposed guardian, the proposed standby guardian,
9 if any, and any other person seeking appointment as guardian and report to the court
10 concerning the ~~fitness~~ *suitability* of each individual interviewed to serve as guardian and
11 concerning the report under s. 54.15 (8).

12 (d) 1. Review any power of attorney for health care under ch. 155, any durable
13 power of attorney under ch. 243 executed by the proposed ward, and any other
14 advance planning for financial and health care decision making in which the
15 proposed ward had engaged.

16 2. Interview any agent appointed by the proposed ward under any document
17 specified in subd. 1.

18 3. Report to the court concerning whether or not the proposed ward's advance
19 planning is adequate to preclude the need for guardianship.

20 (g) If the proposed ward or ward requests representation by counsel, inform the
21 court and the petitioner or the petitioner's counsel, if any.

22 (h) Attend all court proceedings related to the guardianship.

23 **54.42 Rights of proposed ward or ward. (1) RIGHT TO COUNSEL. (a) 1. The**
24 proposed ward or ward requests counsel.

SENATE BILL 391

SECTION 102

1 2. The guardian ad litem or another person states to the court that the proposed
2 ward or ward is opposed to the guardianship petition.

3 3. The court determines that the interests of justice require counsel for the
4 proposed ward or ward.

5 (b) Any attorney obtained under par. (a) or appointed under par. (c) shall be an
6 advocate for the expressed wishes of the proposed ward or ward.

7 (2) RIGHT TO JURY TRIAL. The proposed ward or ward has the right to a trial by
8 a jury if demanded by the proposed ward or ward, his or her attorney, or the guardian
9 ad litem, except that the right is waived unless demanded at least 48 hours before
10 the time set for the hearing. The number of jurors for such a trial is determined under
11 s. 756.06 (2) (b). The proposed ward or ward, his or her attorney, or the guardian ad
12 litem each has the right to present and cross-examine witnesses, including any
13 physician or licensed psychologist who reports to the court concerning the proposed
14 ward.

15 (3) RIGHT TO INDEPENDENT EXAMINATION.

16 (5) RIGHT TO BE PRESENT AT HEARING. The proposed ward or ward has the right
17 to be present at any hearing regarding the guardianship.

18 (6) RIGHT TO HEARING IN ACCESSIBLE LOCATION. The proposed ward or ward has
19 the right to have any hearing regarding the guardianship conducted in a location and
20 manner that is accessible to the proposed ward or ward.

21 **54.44 Hearing.** (1) TIME OF HEARING; PROVISION OF REPORTS. (a) *Time of hearing*
22 *for petition.* A petition for guardianship, other than a petition under par. (b) or s.
23 54.50 (1), shall be heard within 90 days after it is filed. The guardian ad litem and
24 attorney for the proposed ward shall be provided with a copy of the report of the

SENATE BILL 391

1 examining physician or psychologist under s. 54.36 (1) at least 96 hours before the
2 time of the hearing.

3 **INSERT 83-2** (2) STANDARD OF PROOF. Any determination by the court as to whether the
4 proposed ward is incompetent or ^{a minor,} is a spendthrift shall be by clear and convincing
5 evidence.

6 (3) PRESENCE OF PROPOSED GUARDIAN. ^{OR PETITIONER} (a) The proposed guardian and any proposed
7 standby guardian shall be physically present at the hearing unless the court excuses
8 the attendance of either or, for good cause shown, permits attendance by telephone.

9 **INSERT 83-8** (4) PRESENCE OF PROPOSED WARD. (a) *Adult proposed ward.* The petitioner shall
10 ensure that the proposed ward attends the hearing unless the attendance is waived
11 by the guardian ad litem. In determining whether to waive attendance by the
12 proposed ward, the guardian ad litem shall consider the ability of the proposed ward
13 to understand and meaningfully participate, the effect of the proposed ward's
14 attendance on his or her physical or psychological health in relation to the
15 importance of the proceeding, and the proposed ward's expressed desires. If the
16 proposed ward is unable to attend the hearing because of residency in a nursing
17 home or other facility, physical inaccessibility, or a lack of transportation and if the
18 proposed ward, guardian ad litem, advocate counsel, or other interested person so
19 requests, the court shall hold the hearing in a place where the proposed ward may
20 attend.

21 (b) *Minor proposed ward.* A minor is not required to attend the hearing.

22 **INSERT 83-21** (6) PROPOSED GUARDIAN ~~INAPPROPRIATE~~ ^{UNSUITABLE} If the court finds that the proposed
23 guardian is inappropriate, the court shall request that a petition proposing a suitable
24 guardian be filed, shall set a date for a hearing to be held within 30 days, and shall

unsuitable

SENATE BILL 391

SECTION 102

1 require the guardian ad litem to investigate the suitability of a new proposed
2 guardian.

3 **54.46 Disposition of petition.** After the hearing under s. 54.44, the court
4 shall dispose of the case in one of the following ways:

5 (1) DISMISSAL OF THE PETITION. (a) If the court finds any of the following, the
6 court shall dismiss the petition:

7 1. Contrary to the allegations of the petition, the proposed ward is not any of
8 the following:

9 a. Incompetent.

10 b. A spendthrift.

11 c. A minor.

12 2. Advance planning by the ward, as specified in s. 54.10 (3) (c) 3., renders
13 guardianship unnecessary.

14 3. The elements of the petition are unproven.

15 (b) The court may also consider an application by the proposed ward for the
16 appointment of a conservator under s. 54.76.

17 (2) APPOINTMENT OF GUARDIAN; ORDER. If the proposed ward is found to be
18 incompetent, a minor, or a spendthrift, the court may enter a determination and
19 order appointing a guardian that specifies any powers of the guardian that require
20 court approval, as provided in ss. 54.20 (2) and 54.25 (2), and may provide for any of
21 the following:

22 (a) *Coguardians.* If the court appoints coguardians of the person or
23 coguardians of the estate under s. 54.10 (5), and unless otherwise ordered by the
24 court, each decision made by a coguardian with respect to the ward must be
25 concurred in by any other coguardian, or the decision is void.

FOR GUARDIANSHIP

CS

INSERT 84-16

SENATE BILL 391

1 (c) *Durable power of attorney.* If the ward has executed a durable power of
2 attorney before a finding of incompetency and appointment of a guardian is made for
3 the ward under this chapter, the durable power of attorney remains in effect, except
4 that the court may, only for good cause shown, revoke the durable power of attorney
5 or limit the authority of the agent under the terms of the durable power of attorney.
6 Unless the court makes this revocation or limitation, the ward's guardian may not
7 make decisions for the ward that may be made by the agent, unless the guardian is
8 the agent. *and the proposed ward's legal counsel* *petitioner*

9 (3) (c) *Fees if guardian is not appointed.* If a guardian is not appointed under
10 sub. (2), the ~~county in which the action is pending for the guardianship proceeding~~
11 ~~is the county~~ *↓* liable for any fees due the guardian ad litem. The proposed ward is

12 liable for any fees due his or her legal counsel, except as follows:

13 1. If counsel is appointed under s. 977.08, the proposed ward is liable only for
14 the fees applicable under ss. 977.07 and 977.075.

15 2. If the court finds the petition for guardianship frivolous under s. 814.025, the
16 court may assess fees to the petitioner.

17 3. If the proposed ward is indigent and counsel is not appointed under s. 977.08,
18 the county in which venue lies for the guardianship proceeding is liable.

19 **54.50 Temporary guardianships.** (1) STANDARD. If it is demonstrated to the
20 court that a proposed ward's particular situation, including the needs of the proposed
21 ward's dependents, requires the immediate appointment of a temporary guardian of
22 the person or estate, the court may appoint a temporary guardian under this section.

23 (3) PROCEDURES FOR APPOINTMENT. All of the following procedures apply to the
24 appointment of a temporary guardian:

SENATE BILL 391**SECTION 102**

1 (a) Any person may petition for the appointment of a temporary guardian for
2 an individual. The petition shall contain the information required under s. 54.34 (1),
3 shall specify reasons for the appointment of a temporary guardian and the powers
4 requested for the temporary guardian, including the power specified in s. 51.30 (5)
5 (e), and shall include a petition for appointment of a guardian of the person or estate
6 or state why such a guardianship is not sought.

7 (b) The court shall appoint a guardian ad litem, who shall attempt to meet with
8 the proposed ward before the hearing or as soon as is practicable after the hearing,
9 but not later than 7 calendar days after the hearing. The guardian ad litem shall
10 report to the court on the advisability of the temporary guardianship at the hearing
11 or not later than 10 calendar days after the hearing.

12 (c) The court shall hold a hearing on the temporary guardianship. The hearing
13 may be held no earlier than 48 hours after the filing of the petition unless good cause
14 is shown. At the hearing, the petitioner shall provide a report or testimony from a
15 physician or psychologist that indicates that there is a reasonable likelihood that the
16 proposed ward is incompetent. The guardian ad litem shall attend the hearing in
17 person or by telephone or, instead, shall provide to the court a written report
18 concerning the proposed ward for review at the hearing.

19 (d) If the court appoints a temporary guardian and if the ward, his or her
20 counsel, the guardian ad litem, or an interested party requests, the court shall order
21 a rehearing on the issue of appointment of the temporary guardian within 10
22 calendar days after the request. If a rehearing is requested, the temporary guardian
23 may take no action to expend the ward's assets, pending a rehearing, without
24 approval by the court.

SENATE BILL 391**SUBCHAPTER V****POST-APPOINTMENT MATTERS**

54.60 (2) CONTENTS OF INVENTORY. The inventory shall provide all of the following information with respect to each asset:

(a) How the asset is held or titled.

(b) The name and relationship to the ward of any co-owner.

(c) The marital property classification of the property and, for any property that is marital property, the spouse who has management and control rights with respect to the property.

(3) TIME FOR FILING. The guardian of the estate shall file the initial inventory within 60 days after appointment, unless the court extends or reduces the time.

(4) NOTICE OF INVENTORY. The court shall specify the persons to whom the guardian of the estate shall provide copies of the inventory.

(5) FEE. The guardian of the estate shall pay from the ward's income and assets the fee specified in s. 814.66 (1) (b) 2. at the time the inventory or other documents concerning the value of the income and assets are filed.

(6) APPRAISAL. The court may order that the guardian of the estate appraise all or any part of the ward's assets.

54.62 Accounts.

(3) SMALL ESTATES. (a) If a ward's income and assets do not exceed the amount specified in s. 867.03 (1g) (intro.), the guardian need not file an account under sub. (1) unless otherwise ordered to do so by the court. For the purposes of this paragraph, the value of the ward's income and assets does not include the ward's income, any burial trust possessed by the ward, or any term or other life insurance policy that is irrevocably assigned to pay for the disposition of the ward's remains at death.

SENATE BILL 391

SECTION 102

1 (b) If the ward's income and assets, as calculated under par. (a), increase above
2 the amount specified in s. 867.03 (1g) (intro.), the guardian shall so notify the court,
3 which shall determine if an annual account under sub. (1) or a final account under
4 s. 54.66 is required.

5 (4) ANNUAL ACCOUNTS OF MARRIED WARDS. (a) For a married ward, the court may
6 waive filing of an annual account under sub. (1) or permit the filing of a modified
7 annual account, which shall be signed by the ward's guardian and spouse and shall
8 consist of all of the following:

9 1. Total assets of the ward, as determined under ch. 766, on January 1 of the
10 year in question.

11 2. Income in the name of the ward, without regard to ch. 766, and the ward's
12 joint income.

13 3. Expenses incurred on behalf of the ward, including the ward's proportionate
14 share of household expenses if the ward and the ward's spouse reside in the same
15 household, without regard to ch. 766.

16 4. Total marital property of the ward, as determined under ch. 766, on
17 December 31 of the year in question.

18 (b) The court shall provide notice of the waiver under par. (a) to any adult child
19 of the ward.

20 (7) (a) The ward.

21 (b) Any guardian ad litem appointed by the court.

22 (c) Any personal representative or special administrator appointed by the
23 court.

24 **54.63 Expansion of order of guardianship; procedure.** (1) If the
25 guardian or another interested person submits to the court a written statement with

SENATE BILL 391

1 relevant accompanying support requesting the removal of rights from the ward and
2 transfer to the guardian of powers in addition to those specified in the order of
3 appointment of the guardian, based on an expansion of the ward's incapacity, the
4 court shall do all of the following:

5 (a) Appoint a guardian ad litem for the ward.

6 (b) Order that notice, including notice concerning potential court action if
7 circumstances are extraordinary, be given to all of the following:

8 1. The county department of social services or human services if the ward is
9 protectively placed or receives long-term support services as a public benefit.

10 2. The ward.

11 3. The guardian.

12 4. The agent under the ward's power of attorney for health care under ch. 155,
13 if any, and the agent under the ward's durable power of attorney under ch. 243, if any.

14 5. Any other persons determined by the court.

15 (2) (a) If, after 10 days after notice is provided under sub. (1) (b), or earlier if
16 the court determines that the circumstances are extraordinary, no person submits
17 to the court an objection to the request under sub. (1), the court may amend the order
18 entered under s. 54.46 (2) and enter a determination and the amended order that
19 specifies any change in the powers of the guardian.

20 (b) If, within 10 days after notice is provided under sub. (1) (b), a person submits
21 to the court an objection to the request under sub. (1), the court shall hold a hearing,
22 unless the objector declines a hearing, under the procedure specified in s. 54.64 (2).

23 54.64 (2) REVIEW AND MODIFICATION.

24 (a) 1. Appoint a guardian ad litem.

25 2. Fix a time and place for hearing.

SENATE BILL 391

SECTION 102

1 3. Designate the persons who are entitled to notice of the hearing and designate
2 the manner in which the notice shall be given.

3 (b) The ward has the right to counsel for purposes of the hearing under par. (a).
4 Notwithstanding any finding of incompetence for the ward, the ward may retain and
5 contract for the payment of reasonable fees to an attorney, the selection of whom is
6 subject to court approval, in connection with proceedings involving review of the
7 terms and conditions of the guardianship, including the question of incompetence.
8 The court shall appoint counsel if the ward is unable to obtain counsel. If the ward
9 is indigent, the county of jurisdiction for the guardianship shall provide counsel at
10 the county's expense.

11 (3) (b) The ward changes residence from this state to another state and a
12 guardian is appointed in the new state of residence.

13 (e) The ward dies.

14 (4) (b) The ward changes residence from this state to another state and a
15 guardian is appointed in the new state of residence.

16 (5) (b) Continue the guardianship, but waive requirements for a bond for the
17 guardian and waive or require an accounting by the guardian.

18 **54.66 Final accounts.**

19 (3) DISCHARGE. After approving the final account and after the guardian has
20 filed proper receipts, the court shall discharge the guardian and release the
21 guardian's bond.

22 **54.68 Review of conduct of guardian.** (1) CONTINUING JURISDICTION OF
23 COURT. The court that appointed the guardian has continuing jurisdiction over the
24 guardian. INSERT 90-24

*or that granted a petition for
acceptance and receipt of
a foreign
guardianship*

SENATE BILL 391

1 (2) CAUSE FOR COURT ACTION AGAINST A GUARDIAN. Any of the following, if
2 committed by a guardian with respect to a ward or the ward's income or assets,
3 constitutes cause for a remedy of the court under sub. (4):

4 (a) Failing to file timely an inventory or account, as required under this
5 chapter, that is accurate and complete.

6 (b) Committing fraud, waste, or mismanagement.

7 (c) Abusing or neglecting the ward or knowingly permitting others to do so.

8 (d) Engaging in self-dealing.

9 (e) Failing to provide adequately for the personal needs of the ward from the
10 ward's available assets and income, including any available public benefits.

11 (f) Failing to exercise due diligence and reasonable care in assuring that the
12 ward's personal needs are being met in the least restrictive environment consistent
13 with the ward's needs and incapacities.

14 (g) Failing to act in the best interests of the ward.

15 (h) Failing to disclose conviction for a crime that would have prevented
16 appointment of the person as guardian.

17 (i) Failing to disclose that the guardian is listed under s. 146.40 (4g) (a) 2.

18 (j) Other than as provided in pars. (a) to (i), failing to perform any duties of a
19 guardian or performing acts prohibited to a guardian as specified in ss. 54.18, 54.19,
20 54.20, 54.22, 54.25, and 54.62.

21 (3) PROCEDURE. Upon the filing of a petition for review of the conduct of a
22 guardian, the court shall hold a hearing in not less than 10, nor more than 60, days
23 and shall order that the petitioner provide notice of the hearing to the ward, the
24 guardian, and any other persons as determined by the court. The court may

SENATE BILL 391**SECTION 102**

1 authorize use by the petitioner of any of the methods of discovery specified in ch. 804
2 in support of the petition to review conduct of the guardian.

3 (4) REMEDIES OF THE COURT. If petitioned by any party or on the court's own
4 motion and after finding cause as specified in sub. (2), a court may do any of the
5 following:

6 (a) Order the guardian to file an inventory or other report or account required
7 of the guardian.

8 (b) Require the guardian to reimburse the ward or, if deceased, the ward's
9 estate for losses incurred as the result of the guardian's breach of a duty to the ward.

10 (c) Impose a forfeiture of up to \$10,000 on the guardian, or deny compensation
11 for the guardian or both.

12 (d) Remove the guardian.

13 (e) Enter any other order that may be necessary or appropriate to compel the
14 guardian to act in the best interests of the ward or to otherwise carry out the
15 guardian's duties.

16 (5) REMOVAL OF PAID GUARDIAN. The court may remove a paid guardian if
17 changed circumstances indicate that a previously unavailable volunteer guardian is
18 available to serve and that the change would be in the best interests of the ward.

19 (6) FEES AND COSTS IN PROCEEDINGS. In any proceeding under sub. (2) or (5), all
20 of the following apply:

21 (a) The court may require the guardian to pay personally any costs of the
22 proceeding, including costs of service and attorney fees.

23 (b) Notwithstanding a finding of incompetence, a ward who is petitioning the
24 court under sub. (2) may retain legal counsel, the selection of whom is subject to court

SENATE BILL 391

1 approval, and contract for the payment of fees, regardless of whether or not the
2 guardian consents or whether or not the court finds cause under sub. (2).

3 **54.72 Guardian compensation and reimbursement.** A guardian of the
4 person or a guardian of the estate is entitled to compensation and to reimbursement
5 for expenses as follows:

6 (1) COMPENSATION. (a) Subject to the court's approval, as determined under par.
7 (b), a guardian shall receive reasonable compensation for the guardian's services.

8 (b) The court shall use all of the following factors in deciding whether
9 compensation for a guardian is just and reasonable:

- 10 1. The reasonableness of the services rendered.
- 11 2. The fair market value of the services rendered.
- 12 3. Any conflict of interest of the guardian.
- 13 4. The availability of another to provide the services.
- 14 5. The value and nature of the ward's assets and income, including the sources
15 of the ward's income.
- 16 6. Whether the ward's basic needs are being met.
- 17 7. The hourly or other rate proposed by the guardian for the services.

18 (c) The amount of the compensation may be determined on an hourly basis, as
19 a monthly stipend, or on any other basis that the court determines is reasonable
20 under the circumstances. The court may establish the amount or basis for computing
21 the guardian's compensation at the time of the guardian's initial appointment.

22 (2) REIMBURSEMENT OF EXPENSES. The guardian shall be reimbursed for the
23 amount of the guardian's reasonable expenses incurred in the execution of the
24 guardian's duties, including necessary compensation paid to an attorney, an
25 accountant, a broker, and other agents or service providers.

SENATE BILL 391

SECTION 102

1 **(3)** WHEN COURT APPROVAL REQUIRED. A court must approve compensation and
2 reimbursement of expenses before payment to the guardian is made, but court
3 approval need not be obtained before charges are incurred.

SUBCHAPTER VI

VOLUNTARY PROCEEDINGS;

CONSERVATORS

54.76 Conservator; appointment; duties and powers; termination.

8 **(3g)** If the individual has executed a durable power of attorney before the
9 proceedings under this section, the durable power of attorney remains in effect,
10 except that the court may, only for good cause shown, revoke the durable power of
11 attorney or limit the authority of the agent under the terms of the durable power of
12 attorney. Unless the court makes this revocation or limitation, the individual's
13 conservator may not make decisions for the individual that may be made by the
14 agent, unless the conservator is the agent.

15 **(3m)** A person may at any time bring a petition for the appointment of a
16 standby conservator for an individual for whom a conservator has been appointed
17 under sub. (2).

18 **(3n)** At any hearing conducted under this section the court may designate one
19 or more standby conservators for an individual for whom a conservator has been
20 appointed under sub. (2) whose appointment shall become effective immediately
21 upon the death, unwillingness, unavailability, or inability to act, resignation, or
22 court's removal of the initially appointed conservator or during a period, as
23 determined by the initially appointed conservator or the court, when the initially
24 appointed conservator is temporarily unable to fulfill his or her duties, including
25 during an extended vacation or illness. The powers and duties of the standby

SENATE BILL 391

1 conservator shall be the same as those of the initially appointed conservator. The
2 standby conservator shall receive a copy of the court order establishing or modifying
3 the initial conservatorship and the order designating the standby conservator. Upon
4 assuming office, the standby conservator shall so notify the court. Upon notification,
5 the court shall designate this conservator as permanent or shall specify the time
6 period for a limited standby conservatorship.

7 (6) The court that appointed the conservator shall have continuing jurisdiction
8 over the conservator. Any of the following, if committed by a conservator with respect
9 to a conservatee or the conservatee's income or assets, constitutes cause for removal
10 of the conservator under sub. (7) (a) 5:

11 (a) Failing to file timely an inventory or account, as required under this
12 chapter, that is accurate and complete.

13 (b) Committing fraud, waste, or mismanagement.

14 (c) Abusing or neglecting the conservatee or knowingly permitting others to do
15 so.

16 (d) Engaging in self-dealing.

17 (e) Failing to provide adequately for the personal needs of the conservatee from
18 the available income and assets and any available public benefits.

19 (f) Failing to act in the best interests of the conservatee.

20 (g) Failing to disclose conviction for a crime that would have prevented
21 appointment of the person as conservator.

22 (h) Failing to disclose that the conservator is listed under s. 146.40 (4g) (a) 2.

23 (7) (a) The powers of a conservator may not be terminated without a hearing
24 and may not be terminated unless any of the following occurs:

SENATE BILL 391**SECTION 102**

1 1. The court removes the conservator on the court's own motion or under sub.
2 (4).

3 2. The court appoints a guardian for the individual whose income and assets
4 are conserved.

5 3. The individual whose income and assets are conserved dies.

6 4. The conservator or individual whose income and assets are conserved
7 changes residence to another state.

8 5. The court finds cause, as specified in sub. (6), for removal of the conservator.

9 (b) If anyone objects to termination of the conservatorship and alleges that the
10 individual whose income and assets are conserved is appropriate for appointment of
11 a guardian, the court may stay the hearing under par. (a) for 14 days to permit any
12 interested person to file a petition for guardianship. If no petition is filed, the court
13 may terminate the conservatorship and may appoint a guardian ad litem for the
14 individual.

15 (8) If a court terminates a conservatorship or a conservator resigns, is removed,
16 or dies, the conservator or the conservator's personal representative or special
17 administrator shall promptly render a final account of the former conservatee's
18 income and assets to the court and to the former conservatee, any guardian of the
19 former conservatee, or any deceased conservatee's personal representative or special
20 administrator, as appropriate. If the conservator dies and the conservator and the
21 deceased conservatee's personal representative or special administrator are the
22 same person, the deceased conservatee's personal representative or special
23 administrator shall give notice of the termination and rendering of the final account
24 to all interested persons of the conservatee's estate.

SENATE BILL 391

SECTION 102

1 (9) (a) If a conservator resigns, is removed, or dies, the court, on its own motion
2 or upon petition of any interested person, may appoint a competent and suitable
3 person as successor conservator. The court may, upon request of any interested
4 person or on its own motion, direct that a petition for appointment of a successor
5 conservator be heard in the same manner and subject to the same requirements as
6 provided under this section for an original appointment of a conservator.

7 (b) If the appointment under par. (a) is made without hearing, the successor
8 conservator shall provide notice to the individual for whom a conservator has been
9 appointed and all interested persons of the appointment, the right to counsel, and
10 the right to petition for reconsideration of the successor conservator. The notice shall
11 be served personally or by mail not later than 10 days after the appointment.

SUBCHAPTER VII

UNIFORM GUARDIANSHIP ACTS

12
13
14 **54.850 Definitions.** In this subchapter:

15 (1) “Administration” means any proceeding relating to a decedent’s estate
16 whether testate or intestate.

17 (2) “Beneficiary” means any person nominated in a will to receive an interest
18 in property other than in a fiduciary capacity.

19 (3) “Distributee” means any person to whom property of a decedent is
20 distributed other than in payment of a claim, or who is entitled to property of a
21 decedent under the decedent’s will or under the statutes of intestate succession.

22 (4) “Person interested” has the meaning given in s. 851.21.

23 **SECTION 103.** 55.01 (1v) of the statutes is created to read:

24 55.01 (1v) “Degenerative brain disorder” means the loss or dysfunction of brain
25 cells to the extent that the individual is substantially impaired in his or her ability

SENATE BILL 391**SECTION 103**

1 to provide adequately for his or her own care or custody or to manage adequately his
2 or her property or financial affairs.

3 **SECTION 104.** 55.01 (6t) of the statutes is created to read:

4 55.01 (6t) "Psychotropic medication" means a prescription drug, as defined in
5 s. 450.01 (20), that is used to treat or manage a psychiatric symptom or challenging
6 behavior.

7 **SECTION 105.** 55.01 (6v) of the statutes is created to read:

8 55.01 (6v) "Serious and persistent mental illness" means a mental illness that
9 is severe in degree and persistent in duration, that causes a substantially diminished
10 level of functioning in the primary aspects of daily living and an inability to cope with
11 the ordinary demands of life, that may lead to an inability to maintain stable
12 adjustment and independent functioning without long-term treatment and support,
13 and that may be of lifelong duration. "Serious and persistent mental illness" includes
14 schizophrenia as well as a wide spectrum of psychotic and other severely disabling
15 psychiatric diagnostic categories, but does not include degenerative brain disorder
16 or a primary diagnosis of a developmental disability, as defined in s. 51.01 (5) (a), or
17 of alcohol or drug dependence.

18 **SECTION 106.** 55.02 of the statutes is amended to read:

19 **55.02 Protective service system; establishment.** The department shall
20 develop a statewide system of protective service for mentally retarded and other
21 developmentally disabled persons, for aged infirm persons, for chronically mentally
22 ill persons, and for persons with other like incapacities incurred at any age in
23 accordance with rules promulgated by the department. The protective service
24 system shall be designed to encourage independent living and to avoid protective
25 placement whenever possible. The system shall use the planning and advice of

SENATE BILL 391

SECTION 106

1 agencies, including the county department under s. 46.215, 46.22, 46.23, 51.42, or
2 51.437. The chairperson of each county board of supervisors shall designate a county
3 department under s. 46.215, 46.22, 51.42, or 51.437 that is providing services in his
4 or her county or a joint mechanism of these county departments to have the
5 responsibility for local planning for the protective service system. The chairperson
6 of the Milwaukee County board of supervisors shall designate the county
7 department under s. 46.215 to serve as the county protective services agency for
8 purposes of s. 55.043. The department and these county departments shall cooperate
9 in developing a coordinated system of services. The department shall provide direct
10 services and enter into contracts with any responsible public or private agency for
11 provision of protective services. In each county, the county department designated
12 under this section shall determine the reporting requirements applicable to the
13 county under s. ~~880.38 (3)~~ 54.25 (1) (a).

14 **SECTION 107.** 55.03 of the statutes is amended to read:

15 **55.03 Status of guardian.** No ~~agency acting as a~~ guardian appointed under
16 ch. 54. or ch. 880 shall, 2003 stats., may be a provider of protective services or
17 placement for its ward under this chapter. Nothing in this chapter ~~shall~~ may be
18 construed to prohibit the transfer of guardianship and legal custody under s. 48.427
19 or 48.43.

20 **SECTION 108.** 55.05 (2) (d) of the statutes is amended to read:

21 55.05 (2) (d) The court may order protective services for an individual for whom
22 a determination of incompetency is made under s. ~~880.33~~ 54.10 (3) if the individual
23 entitled to the protective services will otherwise incur a substantial risk of physical
24 harm or deterioration or will present a substantial risk of physical harm to others.
25 The court may order the involuntary administration of psychotropic medication as

SENATE BILL 391

SECTION 108

1 a protective service ~~under this paragraph only if a determination of incompetency is~~
2 ~~made for the individual under s. 880.33 (4m). The court may authorize a guardian~~
3 ~~to consent to forcible administration of psychotropic medication for an individual~~
4 ~~only if the court has made a finding under s. 880.33 (4r) (b) that the individual has~~
5 ~~substantially failed to comply with the administration of psychotropic medication~~
6 ~~under the individual's treatment plan only under the requirements of s. 55.14.~~

7 **SECTION 109.** 55.05 (5) (b) 1. of the statutes is amended to read:

8 55.05 (5) (b) 1. Guardians of persons who have been found adjudicated
9 incompetent ~~under s. 880.33 in this state~~ may consent to admission to a foster home,
10 group home or community-based residential facility, as defined under s. 50.01 (1g),
11 without a protective placement under s. 55.06 if the home or facility is licensed for
12 fewer than 16 beds. Prior to providing that consent, and annually thereafter, the
13 guardian shall review the ward's right to the least restrictive residential
14 environment and consent only to admission to a home or facility that implements
15 those rights.

16 **SECTION 110.** 55.05 (5) (b) 2. of the statutes is amended to read:

17 55.05 (5) (b) 2. Guardians of persons who have been found adjudicated
18 incompetent ~~under s. 880.33 in this state~~ may consent to admission to a nursing
19 home if the person is admitted directly from a hospital inpatient unit for recuperative
20 care for a period not to exceed 3 months, unless the hospital admission was for
21 psychiatric care. Prior to providing that consent, the guardian shall review the
22 ward's right to the least restrictive residential environment and consent only to
23 admission to a nursing home that implements those rights. Following the 3-month
24 period, a placement proceeding under s. 55.06 is required. INSERT 100-24

25 **SECTION 111.** 55.06 (1) (intro.) of the statutes is amended to read:

SENATE BILL 391

SECTION 111

1 55.06 (1) (intro.) A protective placement under this section is a placement of
2 a ward for the primary purpose of providing care and custody. To be eligible for
3 placement, an individual shall have attained the age of 18, but an individual who is
4 alleged to be developmentally disabled may receive placement upon attaining the
5 age of 14. No protective placement under this section may be ordered unless there
6 is ~~a determination~~ an adjudication of incompetency in ~~accordance with ch. 880~~ this
7 state, except in the case of a minor who is alleged to be developmentally disabled, and
8 there is a finding of a need for protective placement in accordance with sub. (2) except
9 as provided in subs. (11) and (12). A procedure for adult protective placement may
10 be initiated 6 months prior to an individual's birthday at which he or she first
11 becomes eligible for placement.

12 **SECTION 112.** 55.06 (1) (a) of the statutes is amended to read:

13 55.06 (1) (a) ~~The board designated under s. 55.02~~ department, the county
14 department or an agency designated by it with which the county department
15 contracts under s. 55.05 (2), a guardian, or an interested person may file a petition
16 for appointment of a guardian and for protective services or protective placement for
17 the individual. The department shall provide for a schedule of reimbursement for
18 the cost of ~~such~~ the proceedings based upon the ability to pay of the proposed ward
19 or ~~person~~ individual to be protected.

20 **SECTION 113.** 55.06 (2) (b) of the statutes is amended to read:

21 55.06 (2) (b) Except in the case of a minor who is alleged to be developmentally
22 disabled, has either been ~~determined to be~~ adjudicated incompetent by a circuit
23 court, or has had submitted on the minor's behalf a petition for a guardianship;

24 **SECTION 114.** 55.06 (3) (c) of the statutes is amended to read:

SENATE BILL 391

SECTION 114

1 55.06 (3) (c) The A petition under sub. (1) shall be filed in the county of
2 residence of the ~~person~~ individual to be protected, as determined under s. 51.40 or
3 by the individual's guardian or where the individual is physically present due to
4 circumstances including those specified under s. 51.22 (4). If an individual has not
5 received services under ch. 46, 51, or 55 or if an individual has received services
6 under ch. 46, 51, or 55 that have been terminated and has established residence in
7 a county other than that in which the individual resided when the services were
8 received, the court may determine the individual's county of residence. The county
9 of residence under this paragraph is the county of responsibility.

10 **SECTION 115.** 55.06 (3) (d) of the statutes is created to read:

11 55.06 (3) (d) The court in which a petition is first filed under par. (c) shall
12 determine venue. The court shall direct that proper notice be given to any potentially
13 responsible or affected county. Proper notice is given to a potentially responsible or
14 affected county if written notice of the proceeding is sent by certified mail to the
15 county's clerk and corporation counsel. After all potentially responsible or affected
16 counties and parties have been given an opportunity to be heard, the court shall
17 determine that venue lies in the county in which the petition is filed under par. (c)
18 or in another county, as appropriate. If the court determines that venue lies in
19 another county, the court shall order the entire record certified to the proper court.
20 A court in which a subsequent petition is filed shall, upon being satisfied of an earlier
21 filing in another court, summarily dismiss the subsequent petition. If any
22 potentially responsible or affected county or party objects to the court's finding of
23 venue, the court may refer the issue to the department for a determination of the
24 county of residence under s. 51.40 (2) (g) and may suspend ruling on the motion for
25 change of venue until the determination under s. 51.40 (2) (g) is final.